

to the Kansas State Implementation Plan (SIP) on January 25, 1994.

(i) Incorporation by reference.

(A) Kansas SIP, Small Business Stationary Source Technical and Environmental Compliance Assistance Program, dated November 15, 1993.

(29) On May 16, 1994 the Secretary of KDHE submitted revisions to rules K.A.R. 28-19-31, 28-19-32, 28-19-63, and operating permits #20090048 (BPU Quindaro station) and #20090049 (BPU Kaw station).

(i) Incorporation by reference.

(A) Revised regulations K.A.R. 28-19-31, K.A.R. 28-19-32, K.A.R. 28-19-63, effective November 8, 1993.

(B) Operating permits; Kansas City, Kansas, Board of Public Utilities Quindaro permit #20090048, and Kaw permit #20090049, effective October 20, 1993.

(ii) Additional material.

(A) Letter from BPU to KDHE dated December 11, 1992, regarding compliance verification methods and schedules.

(30) On February 17, 1995, the Secretary of the Kansas Department of Health and Environment (KDHE) submitted for approval numerous rule revisions which add and revise definitions, revise the Kansas construction permit program, and create a class II operating permit program.

(i) Incorporation by reference.

(A) Revised rules K.A.R. 28-19-7 effective November 22, 1993; K.A.R. 28-19-8 effective January 23, 1995; K.A.R. 28-19-14 effective January 24, 1994; and the revocation of K.A.R. 28-19-14a effective January 23, 1995; and the revocation of K.A.R. 28-19-14b effective January 24, 1994.

(B) New rules K.A.R. 28-19-204, 212, 300, 301, 302, 303, 304, 400, 401, 402, 403, 404, 500, 501, 502, 540, 541, 542, 543, 544, 545, 546, 561, 562, and 563 effective January 23, 1995.

(31) On May 11, 1995, the Kansas Department of Health and Environment

submitted an emissions inventory update to the Kansas City maintenance plan approved by EPA on June 23, 1992. The submittal also establishes a motor vehicle emissions budget for the purpose of fulfilling the requirements of the Federal Transportation Conformity rule.

(i) Incorporation by reference.

(A) Kansas City Ozone Maintenance State Implementation Plan Revision: Emissions Inventories and Motor Vehicle Emissions Budgets for the Kansas City Metropolitan Area, adopted on May 11, 1995.

(32) A Plan revision was submitted by the Kansas Department of Health and Environment (KDHE) on June 6, 1996, which incorporates by reference the EPA's regulations relating to determining conformity of general Federal actions to State or Federal Implementation Plans, and which revokes old and adopts new open burning regulations.

(i) Incorporation by reference.

(A) Regulation K.A.R. 28-19-800, adopted by the Secretary of the KDHE on February 21, 1996, effective March 15, 1996.

(B) Regulations K.A.R. 28-19-645 to K.A.R. 28-19-648, adopted by the Secretary of KDHE on February 6, 1996, effective March 1, 1996.

(C) Regulations K.A.R. 28-19-45 to K.A.R. 28-19-47, revoked by the Secretary of KDHE on February 6, 1996, effective March 1, 1996.

(d) Plan revisions were submitted on April 17, 1974, and February 17, 1974.

[37 FR 10867, May 31, 1972]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 52.870, see the List of CFR Sections Affected in the Finding Aids sections of this volume.

#### § 52.871 Classification of regions.

The Kansas plan was evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
Metropolitan Kansas City Interstate .....	I	III	III	I	I
South Central Kansas Intrastate .....	I	III	III	III	I

Air quality control region	Pollutant				
	Particulate matter	Sulfur oxides	Nitrogen dioxide	Carbon monoxide	Photochemical oxidants (hydrocarbons)
Northeast Kansas Intrastate .....	I	III	III	III	III
Southeast Kansas Intrastate .....	III	III	III	III	III
North Central Kansas Intrastate .....	I	III	III	III	III
Northwest Kansas Intrastate .....	I	III	III	III	III
Southwest Kansas Intrastate .....	I	III	III	III	III

[37 FR 10867, May 31, 1972]

**§ 52.872 Operating permits.**

Emission limitations and related provisions which are established in Kansas operating permits as Federally enforceable conditions shall be enforceable by EPA. EPA reserves the right to deem permit conditions not Federally enforceable. Such a determination will be made according to appropriate procedures and be based upon the permit, permit approval procedures, or permit requirements which do not conform with the operating permit program requirements or the requirements of EPA underlying regulations.

[60 FR 36364, July 17, 1995]

**§ 52.873 Approval status.**

(a) The Kansas portion of the Kansas City metropolitan area was designated as nonattainment for ozone in 40 CFR part 81. Therefore, the Administrator approves continuation of the 7.8 RVP limit as federally enforceable in the Kansas City metropolitan area, even after the area is redesignated to attainment, because of its nonattainment designation effective January 6, 1992. Also, the requirement for 7.8 psi RVP volatility is deemed necessary to ensure attainment and maintenance of the ozone standard as demonstrated by the emissions inventory projections (based on use of 7.8 psi RVP) in Kansas' ozone maintenance plan for the Kansas City metropolitan area.

(b) [Reserved]

(c) The Administrator approves Rule K.A.R. 28-19-31 as identified at § 52.870(c)(29), with the understanding that any alternative compliance plans issued under this rule must be ap-

proved by EPA as individual SIP revisions.

[37 FR 10867, May 31, 1972, as amended at 46 FR 20170, Apr. 3, 1981; 46 FR 61118, Dec. 15, 1981; 57 FR 27939, June 23, 1992; 59 FR 52427, Oct. 18, 1994; 61 FR 16061, Apr. 11, 1996]

**§ 52.874 Legal authority.**

(a) The requirements of § 51.230(f) of this chapter are not met since authority to make emission data available to the public is inadequate. Kansas Statutes Annotated 65-3015 would require confidential treatment if the data related to processes or production unique to the owner or would tend to affect adversely the competitive position of the owner.

(b) The requirements of § 51.232(b) of this chapter are not met since the following deficiencies exist in the local agency legal authority:

(1) *Kansas City, Kans.-Wyandotte County Health Department.* (i) Authority to make emission data available to the public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated local air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).

(2) *Topeka-Shawnee County Health Department.* (i) Authority to make emission data available to the public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).

(3) *Wichita-Sedgwick County Health Department.* (i) Authority to make emission data available to the public is inadequate because the Kansas Statutes Annotated 65-3016 provides a designated local air quality conservation authority with the same authority as the State (§ 51.230(f) of this chapter).